

SECOND REGULAR SESSION

SENATE BILL NO. 1294

92ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR KENNEDY.

Read 1st time February 25, 2004, and ordered printed.

TERRY L. SPIELER, Secretary.

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AN ACT

To repeal section 630.130, RSMo, and to enact in lieu thereof one new section relating to electroconvulsive therapy.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 630.130, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 630.130, to read as follows:

630.130. 1. Every patient, whether voluntary or involuntary, in a public or private mental health facility shall have the right to refuse electroconvulsive therapy.

2. Before electroconvulsive therapy may be administered voluntarily to a patient, the patient shall be informed, both orally and in writing, of the risks of the therapy and shall give his express written voluntary consent to receiving the therapy.

3. Involuntary electroconvulsive therapy may be administered under a court order after a full evidentiary hearing where the patient refusing such treatment is represented by counsel who shall advocate his or her position. **Court-appointed counsel shall be awarded a reasonable fee to be paid under subsection 2 of section 632.415, RSMo.** The therapy may be administered on an involuntary basis only if it is shown, by clear and convincing evidence, that the therapy is necessary under the following criteria:

(1) There is a strong likelihood that the therapy will significantly improve or cure the patient's mental disorder for a substantial period of time without causing him any serious functional harm; and

(2) There is no less drastic alternative form of therapy which could lead to substantial improvement in the patient's condition. At the conclusion of such hearing, if the petitioner has sustained his burden of proof, the court may order up to a specified number of involuntary electroconvulsive therapy treatments to be performed over a specified period of time.

4. Parents of minor patients or legal guardians of incompetent patients shall be required to obtain court orders authorizing electroconvulsive therapy under the procedures

specified in subsection 3 of this section.

5. Persons who are diagnosed solely as mentally retarded shall not be subject to electroconvulsive therapy.

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